

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

UNITED STATES OF AMERICA)
 Petitioner)
)
 V.)
)
JOHN S. GILBERT)
 Respondent)

M.B.D. No.

04 MBD 10123

**PETITION TO ENFORCE
INTERNAL REVENUE SERVICE SUMMONS**

The United States of America, on behalf of its agency, the Internal Revenue Service, and by its attorney, Michael Sullivan, United States Attorney for the District of Massachusetts, state that:

1. This proceeding for the enforcement of an Internal Revenue Service Summons is brought pursuant to sections 7402(b) and 7604(a) of the Internal Revenue Code of 1986, 26 U.S.C. sections 7402(b) and 7604(a).
2. Laura Moore is a Revenue Officer of the Internal Revenue Service authorized to issue summonses under the Internal Revenue Laws.
3. The respondent, John S. Gilbert, resides or is found at 289 Lynnfield Street, Peabody, Massachusetts 01960 within the jurisdiction of this Court. The respondent is in possession and control of testimony and documents concerning this investigation. Revenue Officer Laura Moore is conducting an investigation for the collection of the tax liability of John S. Gilbert for the taxable period(s) ending on December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, December 31, 1997 and December 31, 1998.
4. Section 6301 of the Internal Revenue Code of 1986, 26 U.S.C., authorizes the Secretary of the Treasury to collect the taxes imposed by the Internal Revenue Laws. For the purpose of collecting the tax liability of any person, Section 7602 authorizes the Secretary to issue a Summons to the person to appear at a time and place named in the Summons, to produce such books, papers, records or other data, and to testify, as may be relevant or material to collecting the tax liability.
5. On September 11, 2003, Revenue Officer Laura Moore issued, pursuant to Section 7602 of the Internal Revenue Code of 1986, a summons to John S. Gilbert, directing him to appear before Revenue Officer Laura Moore at 1 Montvale Avenue, Stoneham, MA 02180 on October 9, 2003 and to produce for examination (and give testimony relating to) documents and financial records for the period(s) January 1, 2003 to September 30, 2003.

A copy of the Summons is attached to this Petition as "Exhibit A". On September 11, 2003, Revenue Officer Laura Moore served the Summons on John S. Gilbert by leaving an attested copy of the summons at the last and usual place of abode of the person to whom it was directed. Revenue Officer Laura Moore signed a certification on the face of the copy of the summons served that it is a true and correct copy of the original.

6. John S. Gilbert has failed and refuses to comply with the Summons.

7. The records sought by the Summons are not now in the possession of the Internal Revenue Service, and their production by John S. Gilbert for examination by an officer of the Internal Revenue Service is necessary to complete a Collection Information Statement.

WHEREFORE, the petitioner prays that:

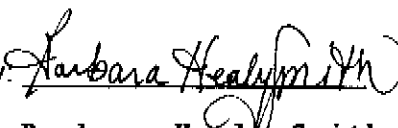
1. John S. Gilbert be ordered to show cause, if any he has, why he should not obey the Summons;

2. John S. Gilbert be ordered to obey the Summons at a time and place to be fixed by Revenue Officer Laura Moore or by any other officer of the Internal Revenue Service authorized to examine the records and take testimony; and

3. The cost of this action to be awarded to the United States.

By their attorney,

MICHAEL SULLIVAN
United States Attorney

By: 
Barbara Healy Smith

Assistant U.S. Attorney
United States Attorney's Office
United States Courthouse – Suite 9200
1 Courthouse Way
Boston, MA 02210
(617) 748-3282



Summons

EXHIBIT A

In the matter of John S Gilbert, 289 Lynnfield St, Peabody MA 01960Internal Revenue Service (Division): Small Business/Self EmployedIndustry/Area (name or number): Small Business/Self Employed Area: 27Periods December 31, 1993, December 31, 1994, December 31, 1995, December 31, 1996, December 31, 1997 and December 31, 1998

The Commissioner of Internal Revenue

To John S GilbertAt 289 Lynnfield St Peabody MA 01960

You are hereby summoned and required to appear before Laura Moore, an officer of the Internal Revenue Service, to give testimony and to bring with you and to produce for examination the following books, records, papers, and other data relating to the tax liability or the collection of the tax liability or for the purpose of inquiring into any offense connected with the administration or enforcement of the internal revenue laws concerning the person identified above for the periods shown.

All documents in your possession and control reflecting the assets and liabilities of the above named taxpayer(s) including, but not limited to, the following: all bank statements, checkbooks, canceled checks, savings account passbooks, and records of certificates of deposit, for January 1, 2003 to September 30, 2003 (specify current year and the preceding year), regarding accounts or assets held in the name of the taxpayer(s) or held for the benefit of the taxpayer(s); all records or documents regarding stocks and bonds, deeds or contracts regarding real property, current registration certificates for motor vehicles, and life or health insurance policies currently in force, any of which items are owned, wholly or partially, by the taxpayer(s), or in which the taxpayer(s) have a security interest, or held for the benefit of either or both of the taxpayer(s), so that a current Collection Information Statement may be prepared. A blank copy of such Collection Information Statement is attached hereto to guide you in the production of the necessary documents and records.

Do not write in this space

Business address and telephone number of IRS officer before whom you are to appear:

1 Montvale Ave, Stoneham, MA 02180 781-835-4250

Place and time for appearance at: 1 Montvale Ave, Stoneham, MA 02180

on the 9th day of October, 2003 at 08:00 o'clock A m.

Issued under authority of the Internal Revenue Code this 11th day of September, 2003



IRS

Department of the Treasury
Internal Revenue Service
www.irs.gov

Form 2039 (Rev. 12-2001)
Catalog Number 21405J

Laura Moore
Signature of Issuing Officer

Revenue Officer
Title

Signature of Approving Officer (if applicable)

Title

Original — to be kept by IRS



Service of Summons, Notice and Recordkeeper Certificates

(Pursuant to section 7603, Internal Revenue Code)

I certify that I served the summons shown on the front of this form on:

Date

09/11/2003

Time

12:15 pm

How Summons Was Served

1. ☐ I certify that I handed a copy of the summons, which contained the attestation required by § 7603, to the person to whom it was directed.
2. ☒ I certify that I left a copy of the summons, which contained the attestation required by § 7603, at the last and usual place of abode of the person to whom it was directed. I left the copy with the following person (if any): with a messenger
3. ☒ I certify that I sent a copy of the summons, which contained the attestation required by § 7603, by certified or registered mail to the last known address of the person to whom it was directed, that person being a third-party recordkeeper within the meaning of § 7603(b). I sent the summons to the following address: DOJ

Signature

Saura Moore

Title Revenue Officer

4. This certificate is made to show compliance with IRC Section 7609. This certificate does not apply to summonses served on any officer or employee of the person to whose liability the summons relates nor to summonses in aid of collection, to determine the identity of a person having a numbered account or similar arrangement, or to determine

whether or not records of the business transactions or affairs of an identified person have been made or kept.

I certify that, within 3 days of serving the summons, I gave notice (Part D of Form 2039) to the person named below on the date and in the manner indicated.

Date of giving Notice: _____

Time: _____

Name of Noticee: _____

Address of Noticee (if mailed): _____

How Notice Was Given

- | | |
|---|--|
| <input type="checkbox"/> I gave notice by certified or registered mail to the last known address of the noticee. | <input type="checkbox"/> I gave notice by handing it to the noticee. |
| <input type="checkbox"/> I left the notice at the last and usual place of abode of the noticee. I left the copy with the following person (if any). | <input type="checkbox"/> In the absence of a last known address of the noticee, I left the notice with the person summonsed. |
| | <input checked="" type="checkbox"/> No notice is required. |

Signature

Saura Moore

Title

Revenue Officer

I certify that the period prescribed for beginning a proceeding to quash this summons has expired and that no such proceeding was instituted or that the noticee consents to the examination.

Signature

Saura Moore

Title

Revenue Officer